



STATE OF UTAH
NATURAL RESOURCES
Water Rights

Norman H. Bangerter, Governor
Dee C. Hansen, Executive Director
Robert L. Morgan, State Engineer

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October 24, 1986

Mr. James J. Smedley
30 North Main Street, Suite 5
Heber City, Utah 84032

Dear Mr. Smedley:

This letter is in response to your October 10 request for information on Hoyt Canyon Creek. Originally Hoyt Canyon Creek was set up under the Weber River Decree as indicated on the attached summary. The total acres irrigated were 51.1 acres with 30 of those being under right 837 or approximately $\frac{3}{5}$ of the rights. The rest totaled to approximately $\frac{2}{5}$. It appears in some of the earlier general discussions and correspondence on file that the $\frac{2}{5}$ - $\frac{3}{5}$ split was a topic of discussion and fairly well accepted. Change applications filed after that time (a3463, a3464, a3465, a3466, a4790 all 35-AREA) appeared to misinterpret what was actually owned and deeds were given for $\frac{2}{5}$ of Weber River Decree Rights 836, 854, 855 and 865 (these four rights are approximately only $\frac{2}{5}$ of the total flow from Hoyt Canyon) and therefore represented only $\frac{2}{5}$ of $\frac{2}{5}$ of the total stream flow. It appears that updated deeds should be filed to reflect who actually owns and is using the rights.

There is no indication in the decree nor on the associated files to require the owners of the rights to split the waters on turns proportionally. State law is based on the priority system with first in time being first in right. The earliest priorities on the creek would be Weber River Decree rights 836 and 837, both with a 1860 priority date. These rights should be filled first before the other rights. This does not exclude, however, the possibility for all users to combine the total flow and distribute the flow on turns proportionally to the rights owned. This would have to be established by an agreement of all users. There was no evidence found on the file indicating that an agreement had been made, with the exception of a statement in a deed indicating turns were used to distribute the creek for 7 of every 17 days under one of the change applications.

Without a binding agreement to proportionally split the water, it appears that the rights should be delivered on a priority basis.

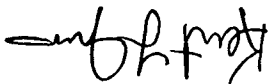
Though the waters are part of the Weber River decreed waters, the river commissioner has indicated that because the creek is totally diverted before it enters the main stream of the Weber River there is not direct supervision on the distribution of water from Hoyt's Canyon. This is evidenced by the minimal annual assessments for the Weber River Decree rights under accounts 1, 79, and 196 in the respective names of James L. Barker, Joseph B. Hoyt, and Marion Park Estates. Last year's assessment total for the three accounts was only \$22.25 of which part of that was collected for waters diverted from Crooked Creek, in the same general area. It appears from the records that all users of the Hoyt's Canyon Creek should be included in the annual assessments roles under the Weber River Distribution system and not only the three who are currently being assessed. This, however, would only be a minimal assessment to include the rights in the Weber River Distribution Accounting system but would not provide adequate funds for the actual operation and distribution of the system.

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The river commissioner further indicated that more supervision could be given to distributing the Hoyt's Canyon water to the proper users but that those using the water would have to pay for the time and expenses of those doing the work. The commissioner would need to be contacted as well as the Weber River Distribution system directing board to determine the charges and work required. It was indicated that it may amount to several hundreds of dollars to complete the tasks and make records in the commissioners report. On most smaller tributaries throughout the Weber system, the operations and diversions of water are done by the users themselves according to the decreed rights or agreements that have been reached by all users of the tributary waters.

If you have any questions concerning this information or need clarification, please contact me at our Salt Lake Office.

Sincerely Yours



Kent L. Jones, P. E.
Directing Engineer, Distribution
for Robert L. Morgan, P. E.
State Engineer

KLJ:cj

cc: Jess Anderson, P. E.
Weber River Area Office

Enclosure

HOYT CANYON CREEK

Weber River Decree Number	Weber River Decree Priority	Decree Owner	Current owner of Record	Acres Irrigated	Flows (cfs) <u>Flow high low</u>	Remarks
836	1860	Joseph Hoyt	same as original (names of Doug Simpson, Earl Whitaker, Urban Platt, Glenna Barker, Vernon Cannon, Robert Ryberg, Mildred Dern & Harold Beecher have been mentioned in deeds but chain of title is not totally complete.)	1.6	.11 .11 .02	Used for irrigation & stockwater.
854	1870	Daniel Lewis	same as original (refer to note in 836)	2.0	.13 .13 .02	Used for irrigation & stockwater.
855	1870	Henry Lewis	same as original (refer to note in 836)	16.0	1.07 1.07 .20	Used for irrigation & stockwater.
865	1874	Elias Lemon	same as original (refer to note in 836)	1.5	.1 .1 .02	Used for irrigation & stockwater.
837	1860	Edward Rockhill Marion Park Estates		30.0	2.0 2.0 .38	Used for irrigation & stockwater with .01 cfs year round flow for domestic & stockwater.

TOTAL: 51.1 acres 3.41 3.41 .64

Change applications filed a3463, a3464, a3465, a3466, a4790 All 35-AREA (a4790 combines other 4 changes) filed in the names of Doug Simpson, etal.

Weber River Distribution System Assessments

Account Number	Name	1986 Assessment	Remarks
1	James L. Barker	3.98	
79	Joseph B. Hoyt Estates	11.40	
196	Marion Park Estates	6.87	Also includes Crooked Creek water
Total:		\$22.25	